

IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO

STATE OF OHIO,	:	APPEAL NOS. C-090095
		C-090096
Plaintiff-Appellee,	:	TRIAL NOS. B-0801108
		B-0806563
vs.	:	
		<i>JUDGMENT ENTRY.</i>
MARINO MERCER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

In separate cases, defendant-appellant Marino Mercer was charged with trafficking in marijuana,² abduction,³ and felonious assault.⁴ In case number B-0801108, Mercer pleaded guilty to trafficking in marijuana,⁵ and he was sentenced to three years of community control, along with a one-year driver's license suspension. The trial court advised Mercer of the consequences of violating the conditions of his community control, but while on community control, Mercer was indicted in case number B-0806563 for abduction⁶ and felonious assault.⁷ Mercer later pleaded guilty to abduction, a reduced charge of attempted felonious assault, and a

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

² R.C. 2925.03(A)(1).

³ R.C. 2905.02(A)(1).

⁴ R.C. 2903.11(A)(2).

⁵ R.C. 2925.03(A)(1).

⁶ R.C. 2905.02(A)(1).

⁷ R.C. 2903.11(A)(2).

community-control violation. The court then held a sentencing hearing on both cases and sentenced Mercer to be incarcerated for seven years and eight months.

On appeal, counsel for Mercer has filed a brief in accordance with *Anders v. California*, stating that counsel has conscientiously reviewed the record and has found no grounds on which to appeal.⁸ Counsel requests permission to withdraw and, as required by *Anders*, requests that this court independently examine the record to determine if the proceedings below were free of prejudicial error. Counsel has properly notified Mercer of the filing of this *Anders* brief, providing sufficient time for Mercer to identify grounds for this appeal.

After examining the entire record, we are satisfied that counsel has provided Mercer with a diligent and thorough review of the proceedings, and that the proceedings below were free of prejudicial error.

We conclude that Mercer's appeal is without merit and is wholly frivolous. Therefore, we overrule counsel's motion to withdraw and affirm the judgment of the trial court.

Although we hold that this appeal is frivolous under App.R. 23 and without "reasonable cause" under R.C. 2505.35, we refrain from taxing costs and expenses against Mercer because he is clearly indigent. Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HENDON, P.J., SUNDERMANN and MALLORY, JJ.

To the Clerk:

Enter upon the Journal of the Court on December 23, 2009

per order of the Court _____.
Presiding Judge

⁸ *Anders v. California* (1967), 386 U.S. 738, 87 S.Ct. 1396.